

### REMARKS

In response to the Restriction Requirement dated January 25, 2006, Applicant *provisionally* elects, *with traverse*, to prosecute the invention of Group 1, claims 1-9, 11-19, 22, 25-28, 34-37 and 46.

As explained below, Applicant concedes that claims drawn to inhibiting data recording are distinct from claims to inhibiting data transmission, such as jamming. Accordingly, Applicant respectfully cancels, without prejudice or disclaimer, only claims 23-34, 42-45, 47 as being drawn to non-elected Group 2 (inhibiting data recording). Applicant reserves the right to re-introduce such claims in one or more divisional patent applications at a later date.

Grounds for Applicants traversal are discussed below.

In sum, claims 1-49 were previously pending in this case. Claims 23-34, 42-45, 47 have been cancelled. Claim 50 has been added. As a result, claims 1-22, 35-41, 46, and 48-50 are now pending in this case.

#### Grounds for Traversal

First, Applicant notes for the record that the Restriction Requirement fails to address all of pending claims 1-49, but instead only addresses pending claims 1-46. Accordingly, Applicant respectfully requests reconsideration and issuance of a corrected Restriction Requirement, and further opportunity to respond to the same.

Second, Applicant respectfully submits that, as explained below, the present claims have been inappropriately classified into the following Groups imposed by the Restriction Requirement: (1) jamming data; (2) inhibiting data recording; and (3) apparatus that controls data transmission. First, Applicant respectfully submits that Group 1 (jamming data) is more appropriately referred to as Group 1 (inhibiting data communication), of which jamming data is a particular species of inhibiting data communication.

Because Applicant agrees that Group 1 (inhibiting data communication) is different from Group 2 (inhibiting data recording), Applicant respectfully agrees to cancel, without prejudice or disclaimer, the following claims as being drawn to Group 2 (inhibiting data recording): 23-34, 42-45, 47, reserving the right to re-introduce such claims in one or more divisional patent

applications at a later date.

However, Applicant respectfully submits that Group 1 (inhibiting data communication) should properly include all of the following claims: 1-22, 35-41, 46, and 48-49. Accordingly, Applicant respectfully requests reconsideration of the Restriction Requirement, such that all of claims 1-22, 35-41, 46, and 48-49 should be considered as part of Group 1, and examined together. Some specific reasoning is present below.

For example, dependent claim 10 explains the type of data being communicated (e.g., recorded physiological data), however, by its incorporation of the language of claim 1, claim 10 still pertains to inhibiting data communications (Group 1) as opposed to inhibiting data recording (Group 2). Accordingly, Applicant respectfully submits that claim 10 has erroneously and improperly been included in Group 2 by the Restriction Requirement.

Similarly, dependent claims 20-22 pertain to inhibiting data communication rather than inhibiting data recording. Therefore, Applicant respectfully submits that claims 20-22 were erroneously included with Group 2 and should have been included with Group 1.

Conversely, dependent claim 34 pertains to inhibiting data recording rather than to inhibiting data communication. Therefore, Applicant respectfully submits that claim 34 was erroneously included with Group 1 and should have been included with Group 2.

Similarly, dependent claim 30 pertains to inhibiting data recording. Therefore, Applicant respectfully submits that claim 30 was erroneously included with Group 3, and should have been included with Group 2.

Claims 38-41 were included in Group 3. The Restriction Requirement gave the following reasons for asserting distinctiveness between Groups 1, 2, and 3: (1) The Restriction Requirement alleged that Groups 1, 2, and 3 are unrelated; (2) The Restriction Requirement alleged that Groups 1, 2, and 3 are related as combination and subcombination; and (3) The Restriction Requirement alleged that Groups 1, 2, and 3 are related as process and apparatus for its practice.

The first rationale is logically inconsistent with the second and third: how can the Groups be “unrelated” and also be “related as combination and subcombination” or as “process and apparatus for its practice?” In view of this apparent inconsistency, Applicant respectfully requests withdrawal of the Restriction between Groups 1 and 3 or, alternatively, issuance of a

new Restriction Requirement that clarifies and sets forth a proper basis of restriction and that affords Applicant adequate opportunity to respond.

The second rationale appears only to be applied to distinguish between inhibiting data communication and inhibiting data recording. Insofar as Applicant has already agreed to this distinction and cancelled claims drawn to inhibiting data recording, the second rationale is moot and therefore need not be addressed here.

The third rationale appears to be the basis of distinguishing between Groups 1 and 3. In an attempt to establish support for the third rationale, the Restriction Requirement asserts:

In this case, as in group I, the process of securing or jamming data transmission can be practice by different apparatus, which has a capability of jamming, however, the apparatus as claimed can be used for different process, in any conventional radio frequency exchange.

(Restriction Requirement at 3.) Applicant respectfully traverses. First, this assertion is merely conclusory and no examples are given. Second, Applicant notes that claim 38, as amended, refers to inhibiting data communication and, therefore, is consistent with Group 1. Lastly, Applicant has added new linking claim 50, which Applicant respectfully submit require the examination of Groups 1 and 3 together, as set forth in the MPEP § 809 et seq. Moreover, Applicant respectfully submits that there is no objective evidence that there would be an undue burden on the Examiner to examine Groups 1 and 3 together.

In sum, Applicant respectfully requests withdrawal of the Restriction Requirement, and examination together of all claims now pending in this patent application.

Conclusion

Applicant respectfully submits that the claims are in condition for examination, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6951 to facilitate prosecution of this application.


If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of February, 2006.

  
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